

UNITED STATES DISTRICT COURT

for the
Western District of Washington

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)

Information associated with Facebook Account with user
ID 100021565969681 and name "Richie Martinezperez",
as described in Attachments A and B

Case No. MJ17-366

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

Information associated with Facebook Account with user ID 100021565969681 and name "Richie Martinezperez", as described in Attachments A and B

located in the Northern District of California, there is now concealed (identify the person or describe the property to be seized):

See Attachment B

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☐ evidence of a crime;
☐ contraband, fruits of crime, or other items illegally possessed;
☐ property designed for use, intended for use, or used in committing a crime;
☒ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section
18 USC 3583

Offense Description
Violation of conditions of supervised release

The application is based on these facts:

See Affidavit of Deputy US Marshal John Westland

- ☒ Continued on the attached sheet.
☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.


Applicant's signature

John Westland, Deputy United States Marshal
Printed name and title

Sworn to before me pursuant to CrimRule 4.1.

Date: 08/31/2017

City and state: Seattle, WA



Judge's signature

Brian A. Tsuchida, United States Magistrate Judge
Printed name and title

ATTACHMENT A

Property to Be Searched

This warrant applies to information associated with the Facebook user ID 100021565969681 and name “Richie Martinezperez”, that is stored at premises owned, maintained, controlled, or operated by Facebook, a company headquartered in Menlo Park, California.

ATTACHMENT B
Particular Things to be Seized

I. Information to be disclosed by Facebook

To the extent that the information described in Attachment A is within the possession, custody, or control of Facebook, including any messages, records, files, logs, or information that have been deleted but are still available to Facebook, or have been preserved pursuant to a request made under 18 U.S.C. § 2703(f), Facebook is required to disclose the following information to the government for each user ID listed in Attachment A:

- (a) All contact and personal identifying information, including full name, user identification number, birth date, gender, contact e-mail addresses, Facebook passwords, Facebook security questions and answers, physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers.
- (b) All activity logs for the account and all other documents showing the user's posts and other Facebook activities;
- (c) All photos and videos uploaded by that user ID and all photos and videos uploaded by any user that have that user tagged in them;
- (d) All profile information; News Feed information; status updates; links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends' Facebook user identification numbers; groups and networks of which the user is a member, including the groups' Facebook group identification numbers; future and past event postings; rejected "Friend" requests; comments; gifts; pokes; tags; and information about the user's access and use of Facebook applications;
- (e) All other records of communications and messages made or received by the user, including all private messages, chat history, video calling history, and pending "Friend" requests;
- (f) All "check ins" and other location information;
- (g) All IP logs, including all records of the IP addresses that logged into the account;
- (h) All records of the account's usage of the "Like" feature, including all Facebook posts and all non-Facebook webpages and content that the user has "liked";
- (i) All information about the Facebook pages that the account is or was a "fan" of;
- (j) All past and present lists of friends created by the account;
- (k) All records of Facebook searches performed by the account;
- (l) All information about the user's access and use of Facebook Marketplace;
- (m) The types of service utilized by the user;
- (n) The length of service (including start date) and the means and source of any payments associated with the service (including any credit card or bank account number);

- (o) All privacy settings and other account settings, including privacy settings for individual Facebook posts and activities, and all records showing which Facebook users have been blocked by the account;
- (p) All records pertaining to communications between Facebook and any person regarding the user or the user's Facebook account, including contacts with support services and records of actions taken.

II. Information to be seized by the government

All information described above in Section I that relates to the ongoing fugitive investigation involving Ricardo MARTINEZ-PEREZ, including, for each user ID identified on Attachment A, information pertaining to the following matters:

- (a) Any content including e-mails, messages, texts, photographs, visual images, documents, spreadsheets, address lists, contact lists or communications of any type which could be used to identify the user and or their location.
- (b) Records relating to who created, used, or communicated with the user ID, including records about their identities and whereabouts.
- (c) All subscriber records associated with the specified accounts, including name, address, local and long distance telephone connection records, or records of session times and durations, length of service (including start date) and types of service utilized, telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address, and means and source of payment for such service including any credit card or bank account number.
- (d) Any and all other log records, including IP address captures, associated with the specified accounts;
- (e) Any records of communications between Facebook and any person about issues relating to the account, such as technical problems, billing inquiries, or complaints from other users about the specified account. This to include records of contacts between the subscriber and the provider's support services, as well as records of any actions taken by the provider or subscriber as a result of the communications.

**AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A SEARCH WARRANT**

I, John Westland, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application for a search warrant for information associated with a certain Facebook user ID that is stored at premises owned, maintained, controlled, or operated by Facebook, a social networking company headquartered in Menlo Park, California. The information to be searched is described in the following paragraphs and in Attachment A. This affidavit is made in support of an application for a search warrant under 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A) to require Facebook to disclose to the government records and other information in its possession, pertaining to the subscriber or customer associated with the user ID.

2. I am a Deputy US Marshal / Criminal Investigator with the US Marshal Service (USMS), and have been since January 2008. I have been assigned to the US Marshal Service's Pacific Northwest Violent Offender Task Force since 2010. My training included attending both the Criminal Investigations Training Program at the Federal Law Enforcement Training Center as well as the Basic Deputy US Marshal Training. I have also received ongoing training in fugitive investigations, legal matters, and sex offender investigations. I have participated in numerous arrests, and operations.

3. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

4. Based on my training and experience and the facts as set forth in this affidavit, there is probable cause to search the information described in Attachment A for the purpose of locating and apprehending Ricardo MARTINEZ-PEREZ, who has a

1 federal arrest warrant issued in the Western District of Washington for Violations of
2 Conditions of Supervised Release. There is also probable cause to search the information
3 described in Attachment A for evidence in the fugitive investigation, as described in
4 Attachment B.

5 **PROBABLE CAUSE**

6 5. On November 16, 2012, MARTINEZ-PEREZ pleaded guilty in the
7 Western District of Washington to being a Felon in Possession of a Firearm, in violation
8 of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). (CR12-183JLR, Dkt. 44). On February 25,
9 2013, the Honorable James L. Robart sentenced MARTINEZ-PEREZ to thirty-six (36)
10 months confinement and three years of supervised release. Since his release from
11 confinement, MARTINEZ-PEREZ has admitted to or otherwise been found guilty of
12 committing several violations of his term of his supervised release. (See Dkt. 80, 95-96).

13 6. On or about January 13, 2017, a federal warrant for MARTINEZ-
14 PEREZ's arrest was authorized in the Western District of Washington based upon
15 allegations, detailed in a United States Probation Office report, that MARTINEZ-PEREZ
16 had failed to reside in a residential reentry center, in violation of the conditions of his
17 supervised release.

18 7. Since that time, I have conducted surveillance at multiple locations in an
19 attempt to locate and apprehend MARTINEZ-PEREZ. In February 2017, members of the
20 Pacific Northwest Violent Offender Task Force searched MARTINEZ-PEREZ's last
21 known residence. Task force members also interviewed MARTINEZ-PEREZ's sister and
22 mother, though they did not prove helpful in attempts to locate MARTINEZ-PEREZ.

23 8. On April 21, 2017, the Western District of Washington authorized the
24 U.S. Marshal Service to obtain telephone records under GJ17-134. Those records
25 suggest that MARTINEZ-PEREZ fled the state of Washington.

26 9. As part of my efforts to locate the fugitive MARTINEZ-PEREZ, I
27 searched Facebook for accounts that might be used by him. Earlier this year, I was able
28 to find an account that was being used by Ricardo MARTINEZ-PEREZ, with the profile

1 name "Chino G Martinez," assigned account number 100009403004971. I reviewed
2 photographs and videos which were posted on the profile, which are publicly viewable,
3 and based on my review of booking photos, and photographs provided by U.S. Probation
4 of MARTINEZ-PEREZ, I concluded that those were photographs and videos are of him.
5 Records I obtained associated with this account in May of 2017 suggested that
6 MARTINEZ-PEREZ had by then stopped using the account, however he did log in one
7 time on May 25, 2017.

8 10. I then was able to locate another Facebook account in June, 2017, being
9 used by Ricardo MARTINEZ-PEREZ under the profile name "Devilishways Ways"
10 assigned the account number 100017327557016. This account also has publicly
11 viewable photographs and videos that were uploaded that I knew to be MARTINEZ-
12 PEREZ from my examination of known photographs and my prior dealings with him.
13 Additionally, MARTINEZ-PEREZ uploaded several photographs that he had on the older
14 account as well. I obtained records for this account and have now learned that
15 MARTINEZ-PEREZ deactivated this account sometime in early August of 2017.

16 11. I have since discovered another Facebook account under the name
17 "Richie Martinezperez" with the account number of 100021565969681. This account
18 also has publicly viewable photographs that I recognize as Ricardo MARTINEZ-PEREZ,
19 from my prior contacts with him and review of photos of him. This is the Target Account
20 referenced in this Affidavit. This new account appears to be currently active. While
21 some of the information contained within the accounts appears to be blocked from the
22 public, I have observed that new comments are uploaded regularly and the user posts
23 comments to his "wall" on a regular basis.

24 12. I am aware from my experience and training, and consultation with other
25 investigators, of the following information about Facebook:

26 13. Facebook owns and operates a free-access social networking website of
27 the same name that can be accessed at <http://www.facebook.com>. Facebook allows its
28 users to establish accounts with Facebook, and users can then use their accounts to share

1 written news, photographs, videos, and other information with other Facebook users, and
2 sometimes with the general public.

3 14. Facebook asks users to provide basic contact and personal identifying
4 information to Facebook, either during the registration process or thereafter. This
5 information may include the user's full name, birth date, gender, contact e-mail
6 addresses, Facebook passwords, Facebook security questions and answers (for password
7 retrieval), physical address (including city, state, and zip code), telephone numbers,
8 screen names, websites, and other personal identifiers. Facebook also assigns a user
9 identification number to each account.

10 15. Facebook users may join one or more groups or networks to connect and
11 interact with other users who are members of the same group or network. Facebook
12 assigns a group identification number to each group. A Facebook user can also connect
13 directly with individual Facebook users by sending each user a "Friend Request." If the
14 recipient of a "Friend Request" accepts the request, then the two users will become
15 "Friends" for purposes of Facebook and can exchange communications or view
16 information about each other. Each Facebook user's account includes a list of that user's
17 "Friends" and a "News Feed," which highlights information about the user's "Friends,"
18 such as profile changes, upcoming events, and birthdays.

19 16. Facebook users can select different levels of privacy for the
20 communications and information associated with their Facebook accounts. By adjusting
21 these privacy settings, a Facebook user can make information available only to himself or
22 herself, to particular Facebook users, or to anyone with access to the Internet, including
23 people who are not Facebook users. A Facebook user can also create "lists" of Facebook
24 friends to facilitate the application of these privacy settings. Facebook accounts also
25 include other account settings that users can adjust to control, for example, the types of
26 notifications they receive from Facebook.

27 17. Facebook users can create profiles that include photographs, lists of
28 personal interests, and other information. Facebook users can also post "status" updates

1 about their whereabouts and actions, as well as links to videos, photographs, articles, and
2 other items available elsewhere on the Internet. Facebook users can also post information
3 about upcoming “events,” such as social occasions, by listing the event’s time, location,
4 host, and guest list. In addition, Facebook users can “check in” to particular locations or
5 add their geographic locations to their Facebook posts, thereby revealing their geographic
6 locations at particular dates and times. A particular user’s profile page also includes a
7 “Wall,” which is a space where the user and his or her “Friends” can post messages,
8 attachments, and links that will typically be visible to anyone who can view the user’s
9 profile.

10 18. Facebook allows users to upload photos and videos. It also provides users
11 the ability to “tag” (i.e., label) other Facebook users in a photo or video. When a user is
12 tagged in a photo or video, he or she receives a notification of the tag and a link to see the
13 photo or video. For Facebook’s purposes, the photos and videos associated with a user’s
14 account will include all photos and videos uploaded by that user that have not been
15 deleted, as well as all photos and videos uploaded by any user that have that user tagged
16 in them.

17 19. Facebook users can exchange private messages on Facebook with other
18 users. These messages, which are similar to e-mail messages, are sent to the recipient’s
19 “Inbox” on Facebook, which also stores copies of messages sent by the recipient, as well
20 as other information. Facebook users can also post comments on the Facebook profiles
21 of other users or on their own profiles; such comments are typically associated with a
22 specific posting or item on the profile. In addition, Facebook has a Chat feature that
23 allows users to send and receive instant messages through Facebook. These chat
24 communications are stored in the chat history for the account. Facebook also has a Video
25 Calling feature, and although Facebook does not record the calls themselves, it does keep
26 records of the date of each call.

27 20. If a Facebook user does not want to interact with another user on
28 Facebook, the first user can “block” the second user from seeing his or her account.

1 21. Facebook has a “like” feature that allows users to give positive feedback
2 or connect to particular pages. Facebook users can “like” Facebook posts or updates, as
3 well as webpages or content on third-party (*i.e.*, non-Facebook) websites. Facebook
4 users can also become “fans” of particular Facebook pages.

5 22. Facebook has a search function that enables its users to search Facebook
6 for keywords, usernames, or pages, among other things.

7 23. Each Facebook account has an activity log, which is a list of the user’s
8 posts and other Facebook activities from the inception of the account to the present. The
9 activity log includes stories and photos that the user has been tagged in, as well as
10 connections made through the account, such as “liking” a Facebook page or adding
11 someone as a friend. The activity log is visible to the user but cannot be viewed by
12 people who visit the user’s Facebook page.

13 24. Facebook Notes is a blogging feature available to Facebook users, and it
14 enables users to write and post notes or personal web logs (“blogs”), or to import their
15 blogs from other services, such as Xanga, LiveJournal, and Blogger.

16 25. The Facebook Gifts feature allows users to send virtual “gifts” to their
17 friends that appear as icons on the recipient’s profile page. Gifts cost money to purchase,
18 and a personalized message can be attached to each gift. Facebook users can also send
19 each other “pokes,” which are free and simply result in a notification to the recipient that
20 he or she has been “poked” by the sender.

21 26. Facebook also has a Marketplace feature, which allows users to post free
22 classified ads. Users can post items for sale, housing, jobs, and other items on the
23 Marketplace.

24 27. In addition to the applications described above, Facebook also provides
25 its users with access to thousands of other applications on the Facebook platform. When
26 a Facebook user accesses or uses one of these applications, an update about that the
27 user’s access or use of that application may appear on the user’s profile page.
28

28. Some Facebook pages are affiliated with groups of users, rather than one individual user. Membership in the group is monitored and regulated by the administrator or head of the group, who can invite new members and reject or accept requests by users to enter. Facebook can identify all users who are currently registered to a particular group and can identify the administrator and/or creator of the group. Facebook uses the term “Group Contact Info” to describe the contact information for the group’s creator and/or administrator, as well as a PDF of the current status of the group profile page.

29. Facebook uses the term “Neoprint” to describe an expanded view of a given user profile. The “Neoprint” for a given user can include the following information from the user’s profile: profile contact information; News Feed information; status updates; links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends’ Facebook user identification numbers; groups and networks of which the user is a member, including the groups’ Facebook group identification numbers; future and past event postings; rejected “Friend” requests; comments; gifts; pokes; tags; and information about the user’s access and use of Facebook applications.

30. Facebook also retains Internet Protocol (“IP”) logs for a given user ID or IP address. These logs may contain information about the actions taken by the user ID or IP address on Facebook, including information about the type of action, the date and time of the action, and the user ID and IP address associated with the action. For example, if a user views a Facebook profile, that user’s IP log would reflect the fact that the user viewed the profile, and would show when and from what IP address the user did so.

31. Social networking providers like Facebook typically retain additional information about their users’ accounts, such as information about the length of service (including start date), the types of service utilized, and the means and source of any payments associated with the service (including any credit card or bank account number). In some cases, Facebook users may communicate directly with Facebook about issues

1 relating to their accounts, such as technical problems, billing inquiries, or complaints
 2 from other users. Social networking providers like Facebook typically retain records
 3 about such communications, including records of contacts between the user and the
 4 provider's support services, as well as records of any actions taken by the provider or
 5 user as a result of the communications.

6 32. Therefore, the computers of Facebook are likely to contain all the material
 7 described above, including stored electronic communications and information concerning
 8 subscribers and their use of Facebook, such as account access information, transaction
 9 information, and other account information. I believe such information is likely to help
 10 me locate the fugitive described in this affidavit.

11 **INFORMATION TO BE SEARCHED AND THINGS TO BE SEIZED**

12 33. I anticipate executing this warrant under the Electronic Communications
 13 Privacy Act, in particular 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A), by
 14 using the warrant to require Facebook to disclose to the government copies of the records
 15 and other information (including the content of communications) for the Target Facebook
 16 Account described in Attachment A, as more particularly described in Section I of
 17 Attachment B. Upon receipt of the information described in Section I of Attachment B,
 18 government-authorized persons will review that information to locate the items described
 19 in Section II of Attachment B.

20 **CONCLUSION**

21 34. Based on the forgoing, I request that the Court issue the proposed search
 22 warrant.

23 35. This Court has jurisdiction to issue the requested warrant because it is "a
 24 court of competent jurisdiction" as defined by 18 U.S.C. § 2711. *See* 18 U.S.C. §§
 25 2703(a), (b)(1)(A) & (c)(1)(A). Specifically, the Court is "a district court of the United
 26 States . . . that – has jurisdiction over the offense being investigated." 18 U.S.C. §
 27 2711(3)(A)(i).
 28

1 36. Pursuant to 18 U.S.C. § 2703(g), the presence of a law enforcement
2 officer is not required for the service or execution of this warrant.

3 **REQUEST FOR SEALING**

4 37. I further request that the Court order that all papers in support of this
5 application, including the affidavit and search warrant, be sealed until further order of the
6 Court. These documents discuss an ongoing fugitive investigation that is neither public
7 nor known to the target of the investigation. Accordingly, there is good cause to seal
8 these documents because their premature disclosure may seriously jeopardize the
9 investigation.

10
11 
12 JOHN WESTLAND
13 DEPUTY US MARSHAL

14
15 The above-named agent provided a sworn statement attesting to the truth of the
16 contents of the foregoing affidavit on 31st day of August, 2017.

17
18 
19 BRIAN A. TSUCHIDA
20 UNITED STATES MAGISTRATE JUDGE